

## REVAMPING LEGAL AID SERVICES IN INDIA

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### ABSTRACT

*It is true that India is still a developing country and the fruit bearers of this development are only the upper-class halves of the society. The poor who are the foundation of the society are left with nothing but injustice which is definitely not in favor of the country. Neglecting and ignoring the major part of the society does not contribute to the development of the country. A lot of wrongs are being done against these people because of their poor knowledge regarding their rights to protest against the wrong doers. Non-awareness of indigent regarding the provisions and rights available to them is of great concern which may lead to infringement of their rights. The initiative taken by the government of India in the form of legal services authorities helps these destitute to be aware of their rights by providing them free and competent legal services through legal aid clinics, lok adalats and by conducting awareness camps throughout the country.*

**KEYWORDS:** Legal Services, Justice, Funds & Inequality

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### INTRODUCTION

In the present paper, a sincere attempt has been made to highlight the current status of legal services in India. What needs to be done to ameliorate the deprived section of the society who are sufferers because of inadequate legal aid.

In India, the Constitution is supreme. The Preamble to the Constitution clearly sets out the principle of rule of law when it lays down the objectives of social, economic and political justice, equality of status and of opportunity, and fraternity and dignity of individuals in India. (Singh D. J., 2015)

Legal aid in its wider sense is a fundamental human right that ensures fair and impartial justice to all and mainly to the weaker section of the society. It is the grant of freedom to stand up for oneself in the way that is in best interest of him/her. Every one has the right to access legal information, legal advice as well as legal education and knowledge.

Offering legal services to the citizens who cannot afford them is a fundamental measure of social justice development. (Young, 1991) The stakeholders of legal services authorities have been bothered about the inability of the significant number of disadvantaged people to seek legal services to protect their rights and interests for which the responses include advocacy for bringing about change in the legal system, welfare state funding, development of alternatives and working towards more fundamental social change. (Anderson & Renouf, 2003)

Law is now regarded to be an instrument for social change. This realization in India is reflected in various legislations. The following provisions are incorporated in The Constitution of India:

Ar. 38 (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively, as it may, a social order in which justice, social, economic and political, shall inform all the institution of the national life. (2) The State shall, in particular, strive to minimize the inequalities in income and endeavor to eliminate inequalities in status, feasibilities and opportunities, not only among individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Ar. 39 (A) The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. (Pillai)

The drastic change was brought in the field of legal services in India after the introduction of legal services authorities act, 1987 which was constituted to provide free and competent legal services to the poor and downtrodden people of the country and organize lok adalats to provide justice to them. "Access to Justice" for all is the motto of Legal Services Authorities.

A member of scheduled caste or scheduled tribe, human trafficking victim, a woman or a child, mentally or physically disabled person, victims of undeserved wants, industrial worker, person in custody or one who has annual income less than rupees twelve thousand or such higher amount as may be prescribed by the central or state government are eligible to access legal aid services for a case that includes a suit or any proceeding before a court or any other authority or tribunal. (Ministry of Law and Justice)

National Legal Services Authorities (NALSA) is the apex body which has been constituted under the legal services authorities act, 1987 to provide free legal aid to the weaker section of the society. The edifice of NALSA is based upon the cornerstones of public awareness, equal opportunity and deliverable justice. NALSA lays down the policies, principles, framing of effective and economical schemes to make legal services available, allocates the funds appropriately to the state authorities and district authorities, organizes legal aid camps to spread awareness and legal literacy, settling disputes by way of negotiations, arbitration and conciliation, monitoring and evaluating implementation of the legal aid programmes and coordinating the State Authorities, District Authorities, Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and voluntary social service institutions and other legal services organizations. (Ministry of Law and Justice)

Free legal aid to the poor and marginalized members of the society is now viewed as a tool to empower them to use the power of the law to advance their rights and interests as citizens and as economic actors. (Pillai)

## **LEGAL AID IN DEVELOPED COUNTRIES**

### **Legal Services Corporation, USA**

Equal access to justice is a fundamental principle in American society. Without access to adequate legal representation in civil as well as criminal matters, however, equal access to justice is a meaningless concept. An adequate legal aid system is necessary to ensure that the poor do not become frustrated and disillusioned with the ideal of equal justice. Since 1974, Legal Services Corporation (LSC) has been providing free representations to needy people living near or below the poverty line in non-criminal cases. The qualifying criteria for legal services are high in U.S. but in New York alone two million people are eligible for free legal services. Per the Lawyers' Code of Professional Responsibility, "the basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer ... Every

lawyer, regardless of professional prominence or professional workload should find time to participate in serving the disadvantaged." The positive attributes of legal aid in the U.S. are considered by British also. The LSC issues grants to state or local legal services organizations which provide actual legal advice and representation to eligible clients. (Young, 1991)

### **English Legal Aid System**

Legal aid in England and Wales was established in 1949. It provides assistance to people who would otherwise not be able to afford legal representation or access to the court system. It is an integral part of the British justice system: by ensuring the right to counsel, it safeguards equality before the law and the right to a fair trial. Annual budget of £2bn per year, England and Wales' legal aid system is the most expensive in the world. (Shackle, 2014) At the heart of the English legal aid system is its most controversial feature: complete utilization of barristers and solicitors in private practice to provide the necessary legal services to the poor. The English legal aid scheme consists of three major components: legal aid for civil court proceedings, legal advice and assistance, and criminal legal aid. English law allows judgments to include successful litigants' attorney's fees, an assisted person may be reimbursed for the full amount of any contribution should the action succeed. Any recovery by an assisted person, however, whether costs or damages, is first applied toward reimbursement of legal aid fund expenditures. If an assisted party loses a suit, the Act provides that his or her liability under a court order for costs shall not exceed an amount which is reasonable given the surrounding circumstances. Consequently, the Act protects the legal aid recipient, win or lose. Legal aid expenditures for 1988 totaled 387 million pounds. Of this amount, thirty-three percent, or 136 million pounds, went to civil legal aid and eighteen percent, or 68 million pounds, was spent on legal advice and assistance, including assistance by way of representation. Because of the enormous need for civil legal aid, federal legal assistance programs must find ways to encourage private attorney involvement. (Young, 1991)

### **DISCUSSIONS**

India's legal aid system is not much different from the legal aid systems of U.S. and UK. Each legal system has the motto to provide justice to the oppressed sections of the societies. Studies have shown that the major problem that legal service providers face is inadequate funding.

A welfare society can never be achieved unless all the citizens of the state, rich or poor, weak or strong, dominant or ordinary are scanned equally by the state. Whenever the state deviates from the notion of equality among its citizens; disparity rages among individuals and the essence of a welfare state is lost. The responsibility of the state is not only to impart justice but to check that access to justice is available to all the needy, deprived, oppressed sections of the society or not. It will be also interesting to study whether the funds allocated for this gigantic task are sufficient. According to UNDP study, in states like Madhya Pradesh, Jharkhand, Bihar, Uttar Pradesh, Odisha, Rajasthan and Chattisgarh a total amount of 132.37 crores has been allocated to these states for the block year 2010-15. On an average, 18.91 crores are allocated per state which sums up to 548.39 crores for 5 years and 109.678 crores (approximately) per year for the whole country. Whereas, Britain spends 2 billion Pounds (20,000 crores) per year on legal aid which is almost 200 times more than the amount that India is spending on legal aid. In USA, Congress has just approved funding for Legal Services Corporation (LSC) for 2016 at \$385 million. For 2015, LSC is funded at \$375 million. It was funded at \$365 in 2014. It was funded at \$420 million in 2010, the highest funding ever received. (HOUSEMAN, 2015)

The population of India is 20 times more than the Britain and also the numbers of deprived people in India are more than that of Britain. So, this is apparent from this fact that India really need to work on this particular sector of legal aid to lessen the conflicts of the destitute.

Most of the people are deprived of justice and many are rotting in jails for want of legal aid. In India, 29.5% of population is below poverty line which does not have an access to justice. (Singh K. M., 2014) There should be access to legal aid in order to achieve justice; it will help create a safe environment for people to live in. The progress of the country should not be measured in terms of prosperity but by the accessibility of justice to the poor and the deprived.

The failure to provide adequate legal aid takes an enormous toll not only on the poor but also on the public as a whole. The absence of adequate representation and the subsequent denial of access to public resources impose significant social and economic costs on society. Denying a poor family counsel in an eviction proceeding, for example, greatly increases the likelihood that the family will become homeless, thereby increasing the cost to society in dealing with homelessness. (Young, 1991)

## CONCLUSIONS

When justice will be given to all, India will be moving towards an egalitarian society which is enshrined in our constitution otherwise the dream of equality will a distant dream.

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